

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

No. CR S-04-0327 FCD GGH P

vs.

STEVEN MICHAEL KELLY.

Movant.

FINDINGS AND RECOMMENDATIONS

By order March 30, 2009, movant was ordered to show cause, within twenty days, why respondent's December 4, 2008, motion to dismiss should not be granted. The twenty day period has now expired, and movant has not shown cause or otherwise responded to the court's order.

Accordingly, IT IS HEREBY RECOMMENDED that:

1. Respondent's December 4, 2008, motion to dismiss be granted; and
2. The Clerk of the Court be directed to close the companion civil case No. CIV-S-08-1503 FCD GGH.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, plaintiff may file

written objections with the court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: June 1, 2009

/s/ Gregory G. Hollows

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UNITED STATES MAGISTRATE JUDGE

GGH:035  
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